



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCS/142090

PRELIMINARY RECITALS

Pursuant to a petition filed July 2, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on August 21, 2012, at Racine, Wisconsin.

The issue for determination is whether the agency correctly calculated self-employment income for petitioner's household.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Kathy Christman, Lead FEP
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Michael A. Greene
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner completed a review of her BadgerCare Plus benefits in July 2011. Petitioner reported that household income was derived from a business, half of which was owned by petitioner's husband. The agency obtained business tax returns from 2010 and computed petitioner's income

at \$7,327.92 per month. Based on petitioner's income level, the agency determined that petitioner's children were eligible for the BadgerCare Plus Standard Plan effective September 1, 2011, under a 12-month extension at a premium of \$195.06 per month and a notice to that effect was sent to petitioner on August 16, 2011 (Exhibit 2).

3. An additional notice was sent on September 2, 2011 advising petitioner that all four members of the household would be eligible for the BadgerCare Plus Standard Plan under the extension without premium effective October 1, 2011. Petitioner's income continued to be computed at \$7,327.92 per month (Exhibit 3).
4. On June 11, 2012, the agency sent petitioner a notice of decision advising them that owing to a change in policy, petitioner and her husband would be required to pay a monthly premium of \$696.00 to continue extended BadgerCare Plus Standard Plan coverage (Exhibit 4). Petitioner's income continued to be computed at \$7,327.92 per month.

DISCUSSION

Petitioner completed an annual review of her Medical Assistance in July 2011 and as a result of the income determined at that review, was placed in a 12-month transitional status. She essentially received MA without premium between October 2011 and July 2012. On July 1, 2012, policy changes imposed premiums on non-pregnant adults where household income exceeded 133% of the federal poverty line, Operations Memo 12-25 (April 27, 2012). As a result, petitioner was required to pay a premium of \$696 for coverage beginning July 1, 2012.

Petitioner challenges the amount of income used to determine her status and the premium for July 2012. Petitioner's household income is based solely on self-employment income from a business, half of which is owned by petitioner's husband. Household income was established according to policy which bases the determination on the business tax return for the prior year, *BadgerCare + Eligibility Handbook*, Ch. 16, ¶16.4.3 *et seq.* Thus, the business tax return for 2010 was used during the review in July 2011 and the agency used the proper elements of income and expense in determining petitioner's income.

BadgerCare + Eligibility Handbook, Ch. 16, ¶16.4.3.2.4. provides,

If past circumstances don't represent present circumstances, calculate self-employment income based on anticipated earnings. A change in circumstances is any change that can be expected to affect income over time. *It is the person's responsibility to report changes.* [Emphasis added.]

Petitioner states that her household income is not the amount being used by the agency; if this is the case she had the opportunity to provide information that would have provided a more accurate amount. Case comments show that petitioner questioned the amount of income being budgeted upon being notified of the premium (Exhibit 5) and was asked to provide additional information, including a business tax return for 2011. There is no evidence on this record to indicate that the information was ever provided. In the absence of evidence to the contrary, the agency's determination stands.

CONCLUSIONS OF LAW

Agency's determination of petitioner's self-employment income based on previous year's business tax return was correct in the absence of information indicating a change in circumstances.

THEREFORE, it is

ORDERED

That the petition for review herein be and hereby is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

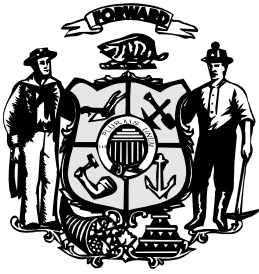
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 27th day of September, 2012

Michael A. Greene
Administrative Law Judge
Division of Hearings and Appeals

c: Racine County Department of Human Services - email
Department of Health Services - email



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 27, 2012.

Racine County Department of Human Services
Division of Health Care Access and Accountability